

Office of the Secretary of Defense

§ 195.8

be specified by him, the adequacy of the plan to accomplish the purpose of the Act or this part within the earliest practicable time. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of said order.

[29 FR 19291, Dec. 31, 1964, as amended at 38 FR 17960, July 5, 1973]

§ 195.7 Compliance information.

(a) *Cooperation and assistance.* Each responsible Department official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the responsible Department official timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible Department official may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this part. In general, recipients should have available for the Department racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations imposed pursuant to this part.

(c) *Access to sources of information.* Each recipient shall permit access by the responsible Department official during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other institution or person and this institution or person shall fail or refuse

to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

(d) *Information to beneficiaries and participants.* Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible Department official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this part.

[29 FR 19291, Dec. 31, 1964, as amended at 38 FR 17960, July 5, 1973]

§ 195.8 Conduct of investigations.

(a) *Periodic compliance reviews.* The responsible Department official or his designee(s) shall from time to time review the practices of recipients to determine whether they are complying with this part.

(b) *Complaints.* Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part may by himself or by a representative file with the responsible Department official a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official.

(c) *Investigations.* The responsible Department official will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination of whether the recipient has failed to comply with this part.

(d) *Resolution of matters.* (1) If an investigation pursuant to paragraph (c) of this section indicates a failure to comply with this part, the responsible Department official will so inform the

recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided in § 195.9.

(2) If an investigation does not warrant action pursuant to paragraph (d)(1) of this section, the responsible Department official will so inform the recipient and the complainant, if any, in writing.

(e) *Intimidatory or retaliatory acts prohibited.* No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this part, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall not be disclosed except when necessary to carry out the purposes of this part including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

[29 FR 19291, Dec. 31, 1964, as amended at 38 FR 17960, July 5, 1974. Redesignated and amended at 56 FR 32965, July 18, 1991]

§ 195.9 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law as determined by the responsible Department official. Such other means may include, but are not limited to (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceedings under State or local law.

(b) *Noncompliance with § 195.6.* If an applicant fails or refuses to furnish an assurance required under § 195.6 or oth-

erwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The component of the Department of Defense concerned shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that the component shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* Except as provided in paragraph (b) of this section no order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding, after opportunity for a hearing (as provided in § 195.10), of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the action has been approved by the Secretary of Defense pursuant to § 195.11, and (4) the expiration of 30 days after the Secretary of Defense has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to affect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the action has been approved